Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Qwest Communications International, Inc. Consolidated Application for Authority To Provide In-Region InterLATA Services in Colorado, Idaho, Iowa, Nebraska and North Dakota	)	WC Docket No. 02-148

OPPOSITION OF THE COMPETITIVE TELECOMMUNICATIONS ASSOCIATION

The Competitive Telecommunications Association ("CompTel") hereby submits this Opposition to the Joint Application of Qwest Communications International, Inc. ("Qwest") to provide in-region interLATA services in Colorado, Idaho, Iowa, Nebraska and North Dakota pursuant to Section 271 of the Communications Act of 1934, as amended (the "Act").[1]

CompTel represents competitive telecommunications providers of all types, their partner suppliers and their service partners. The fundamental mission of CompTel is to protect and advance the interests of its member companies so as to ensure the survival and prosperity of the competitive telecommunications industry in the United States and overseas. CompTel's members include the leading companies building and deploying next-generation, packet and IP-based networks to provide voice, data and video services around the world.

CompTel members have encountered significant problems while conducting business with Qwest. As described herein, Qwest clearly does not satisfy the competitive

1 47 U.S.C. § 271.

checklist set forth in Section 271 of the Act because it does not provide competitors with an adequate change management process, giving Qwest's own retail operation a competitive advantage in the provision of broadband services. This demonstrates clear noncompliance with Section 271(c)(2)(B)(ii), which requires Qwest to provide nondiscriminatory access to unbundled network elements. Moreover, it would not be in the public interest to grant Qwest's application because Qwest has provided in-region interLATA services for more than two years, despite the clear prohibition in Section 271(a)(1) and the Qwest-US West Merger Orders.[2] Qwest should not be rewarded with the authority to provide long distance services despite its documented non-compliance with the Act. Finally, CompTel asks the Commission to dismiss Qwest's application until the FCC resolves the issues raised in Qwest's pending Petition for Declaratory Ruling concerning the proper interpretation of Section 252(a)(1).[3] Clarification of this Section of the Act will have a significant effect on the Commission's analysis of whether Qwest is providing non-discriminatory access to unbundled network elements. However, if the Commission proceeds with its review of Qwest's pending application, it should separate carrier-specific wholesale performance data that is significantly different and cannot be explained by random variation from Qwest's aggregate wholesale performance results. This analysis will

---

2 Memorandum Op. and Order, *Qwest Communications International Inc. and U S West, Inc. Applications for Transfer of Control of Domestic and International Sections 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License*, 15 FCC Rcd. 5376, ¶¶ 27, 70, 71 (March 10, 2000) ("*March 10 Merger Order*"); Memorandum Op. and Order, *Qwest Communications International Inc. and U S West, Inc. Applications for Transfer of Control of Domestic and International Sections 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License*, 15 FCC Rcd 11909, ¶ 42 (June 26, 2000) ("*June 26 Merger Order*") together *("Merger Orders")*

3 *In the Matter of Qwest Communications International Inc., Petition for Declaratory Ruling On the Scope of the Duty to File and Obtain Prior Approval of Negotiated Contractual Arrangements Under Section 252(a)(1),* WC Docket No. 02-89, April 23, 2002. *("Qwest Petition")* As an alternative, the Commission could toll the 90 day review period to accommodate resolution of the issues raised by the Qwest Petition.

ensure that Qwest is providing good wholesale performance to all competitors, despite the appearance of carrier-specific agreements that may have resulted in substantially better wholesale performance, and skewing the aggregate performance results upward to Qwest's advantage.

I. QWEST HAS NOT DEMONSTRATED THAT IT PROVIDES COMPETITORS WITH AN ADEQUATE CHANGE MANAGEMENT PROCESS

Section 271(c)(2)(B)(ii) ("checklist item ii") requires Qwest to provide "non-discriminatory access to network elements in accordance with the requirements of Sections 251(c)(3) and 252(d)(1)."[4] The Commission has determined that "access to OSS functions falls squarely within an incumbent LEC's duty under Section 251(c)(3) to provide unbundled network elements under terms and conditions that are just and reasonable, and its duty under Section 251(c)(4) to offer resale services without imposing any limitations or conditions that are discriminatory or unreasonable."[5] Qwest has violated checklist item ii by preventing competitive entry through its inadequate and discriminatory operations support systems ("OSS"). Specifically, Qwest has failed to develop an adequate change management process that notifies competitors of revisions to Qwest's products and processes at parity with Qwest's own retail organization.

According to the Commission, change management constitutes the methods and procedures that the BOC uses to communicate with competing carriers regarding the performance of, and changes to, the BOC's OSS. The FCC has stated:

---

4 47 U.S.C. § 271(c)(2)(B)(ii).

5 *Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York, Memorandum Opinion and Order*, 15 FCC Rcd 3952, 3990, ¶ 84 (1999).

> By showing that it adequately assists competing carriers to use available OSS functions, [an RBOC] provides evidence that it offers an efficient competitor a meaningful opportunity to compete. As part of this demonstration, the Commission will give substantial consideration to the existence of an adequate change management process and *evidence* that the [RBOC] *adhered to this process over time.*[6]

Although Qwest has had a change management process in place since 1999, this process was seriously flawed and required substantial revisions. One of the most significant flaws has been and continues to be Qwest's inability to administer changes to its operations support systems and communicate information concerning these changes to competitive carriers. Qwest asserts that it has completed revisions to its change management process that will provide competitors with a meaningful opportunity to compete.[7] Further, Qwest asserts that it has demonstrated compliance with this revised change management process over time.[8] However, as late as April 2002, Qwest failed to notify CompTel member New Edge Networks ("New Edge") about a significant change affecting all carriers' ability to provision IDSL service in situations where there was Integrated Pair Gain ("IPG") equipment on the customer's loop, despite the fact that Qwest provided IDSL to its own similarly situated retail customers. Qwest's failure to communicate this information provided Qwest's retail organization with a significant competitive advantage over non-affiliated broadband providers. More specifically, even if Qwest has adequately revised its change management process, Qwest's discriminatory treatment

---

6 *Joint Application by SBC Communications Inc., Southwestern Bell Tel. Co, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 to provide In-Region, InterLATA Services in Arkansas and Missouri*, Memorandum Opinion and Order, CC Docket No. 01-194, FCC 01-338 (Rel. Nov. 16, 2001) at ¶ 40 (emphasis added).

7 *Brief of Qwest Communications International Inc. In Support of Consolidated Application For Authority To Provide In-region, InterLATA Services In Colorado, Idaho, Iowa, Nebraska and North Dakota*, WC Docket No. 02-148, June 13, 2002 at page 131. ("Qwest Brief")

of New Edge is evidence of its failure to adhere to these procedures over time. Therefore, Qwest has failed to produce evidence that it satisfies the requirements of checklist item ii.

For approximately two years prior to April 2002, Qwest stated in a variety of public forums that it could not support the provision of IDSL service when the prospective customer had a loop with IPG.[9] Qwest stated that its inability to provision IDSL capable loops in this situation applied equally to competitors and Qwest's own retail organization. As a result, when New Edge used Qwest's loop prequalification tools and discovered that the prospective customer's loop had IPG, New Edge would cancel the customer's order. New Edge estimates that it cancelled more than 100 customer orders in Colorado alone during this period, as discussed in the attached affidavit of Penny Bewick.

New Edge first became aware that Qwest's retail organization was providing customers with IDSL over loops with IPG in March 2002, when a customer whom New Edge had previously turned down for IDSL called to ask the company why Qwest could provide this service. On or about March 6, New Edge had pre-qualified this customer's loop and discovered that it included IPG. Based on Qwest's previous statements that it could not provision IDSL capable loops in this situation, New Edge notified the customer that it could not fulfill his request for service. Subsequently, the customer contacted Qwest for broadband service. Despite the presence of IPG on the customer's loop, Qwest sold IDSL service to the customer.

---

8 *Id.* at page 143.

9 See Attachment C to the Affidavit of Penny Bewick, Director-Government Affairs for New Edge Networks, Inc., which includes portions of a transcript from a Colorado Public Utility Commission workshop concerning the provisioning of DSL services. (Colorado Docket No. 97I-198T – Workshop 5, May 25, 2001 transcript, page 52, line 4.) As illustrated by the transcript, Qwest publicly stated that IDSL is a service that requires a copper loop and cannot be provisioned over a network that uses devices such as IPG.

Upon inquiry, Qwest's response to New Edge was that Qwest did not advise competitors to avoid placing IDSL orders for customers with IPG in their loops, only that Qwest would not provision IDSL-capable loops when IPG was on the customer's loop. It is ridiculous to expect a competitive carrier like New Edge to waste limited time and resources submitting orders that will not be provisioned by the BOC. Indeed, this would defeat the very purpose of the change management process, which is to inform competitors in a timely fashion of changes to the BOC's systems, processes, products and procedures so they can have a reasonable opportunity to revise their own operations.

Moreover, the fact that Qwest did not provide competitors with timely notice that it would provision IDSL-capable loops over IPG—in fact, Qwest <u>never</u> notified competitors of this policy change—certainly demonstrates discrimination in the provision of unbundled network elements. Compliance with checklist item ii and Qwest's documented change management process required Qwest to notify New Edge that it would provision IDSL over loops with IPG at the same time that Qwest notified its retail organization. In the absence of such notice, New Edge decided not to actively market and pursue business in areas where IPG is typically found or deployed because New Edge understood that the service could not be provided in those areas. As such, New Edge lost business that it might otherwise have obtained. Retail customers also lost the opportunity to choose among broadband providers and could not enjoy the benefits of competition, notably competitive pressure that would encourage Qwest to reduce its rates, improve its service quality, or provide innovative new service packages.

Finally, Qwest's failure to notify competitors of their ability to provide IDSL over IPG loops is evidence of Qwest's failure to adhere to its change management process over time, a critical element in demonstrating the availability of a sufficient change management process.

In Qwest's zeal to gain long distance relief, the company filed its Section 271 application before it completely implemented the revised change management plan.[10] As such, Qwest provides no hard evidence of its compliance with its "new and improved" change management process, though its application is filled with an extensive discussion of administrative milestones that it has met and promises about how it will comply with its change management process on a prospective basis. CompTel does not deny that Qwest has made an effort to improve the manner in which it communicates with competitors concerning changes to its OSS. However, promises to comply with the revised change management process in the future are not enough to satisfy checklist item ii, especially given the recent discriminatory treatment experienced by CompTel member New Edge. Therefore, CompTel urges the Commission to deny Qwest's pending application until Qwest can provide three months of data demonstrating that it has successfully complied with its change management process.

II. AUDITS OF THE QWEST-US WEST MERGER CONDITIONS SHOW THAT QWEST HAS PROVIDED IN-REGION INTERLATA SERVICES IN VIOLATION OF SECTION 271 FOR MORE THAN TWO YEARS

The FCC's Orders conditionally approving the Qwest-US WEST merger required Qwest to divest its in-region interLATA services, customers and assets in the 14-state US WEST region to ensure that the merged company would comply with the requirements of Section 271.[11]

---

10 Qwest argues that issues designated "unable to determine" in the final report by KPMG, the third-party OSS testing agent, fall outside what the FCC requires for Section 271 compliance. See Qwest Brief at page 146. This includes notifying competitors of changes to its products and processes, such as its decision to provision IDSL-capable loops over IPG. CompTel disagrees with Qwest's narrow interpretation of the Commission's change management requirements. Independent of Qwest's narrow view of what constitutes sufficient change management, Qwest's failure to notify competitors of its decision to provision IDSL loops to its retail organization without notifying competitors that similar access was available certainly violates checklist item ii's requirement that Qwest provide non-discriminatory access to UNEs.

11 *Id.*

These assets and customers were sold to CompTel member Touch America. In the Merger Orders, the Commission expressed concern about future compliance with this section of the Act because prior to the merger with US WEST, Qwest provided interLATA service within the US WEST region. Indeed, if both companies were to operate as they did pre-merger, approval of the merger without competitive safeguards would undermine the market-opening provisions of Section 271.

According to the March 10 Merger Order, "compliance with Section 271 is critically important and any failure of the Applicants to ensure compliance would seriously undermine the intent of Congress to promote competition in the telecommunications industry."[12] To ensure ongoing compliance, the Commission required a senior Qwest executive to file an annual certification of compliance with Section 271 and the Merger Orders.[13] Qwest also was required to retain an independent auditor to certify annually the company's ongoing compliance with Section 271.[14]

The first annual Audit Report, filed on March 11, 2001, demonstrated that Qwest was not in compliance with the divestiture requirements contained in the Commission's Merger Orders.[15] For example, the 2001 Audit Report found that "certain non-metered services (e.g., private line services) for 266 customers were billed and branded as Qwest services"[16] through December 31, 2000. This is a clear violation of the Final Divestiture Plan, and by extension, Section 271.

---

12 March 10 Merger Order at ¶ 27.

13 June 26 Merger Order at ¶ 42.

14 *Id.*

15 *Report of the Independent Public Accountants, Arthur Andersen LLP*, April 16, 2001 ("2001 Auditor's Report").

16 Auditor's Report, Attachment 1.

CompTel does not agree with Qwest's characterization that these "minor billing and collection variances do not constitute a violation of Section 271 because Qwest did not *provide* any prohibited interLATA service."[17] The Commission previously made very clear that the term "providing" in Section 271 encompasses more than the physical transmission of telecommunications across LATA boundaries.[18] Instead, the Commission found that a Bell Operating Company ("BOC") "provides" interLATA service when it holds itself out to the public as a provider of long distance service.[19] This included a prohibition on "branding" of in-region interLATA services prior to Section 271 authorization. Moreover, Qwest has violated the specific provisions of the June 26 Merger Order, which expressly required that "Qwest will perform a very limited set of supported services (with retail service always branded as Touch America) for a limited group of in-region customers."[20] Both the 2001 Auditor's Report and the 2001 Qwest Certification confirm the fact that prohibited in-region interLATA services were billed and branded as Qwest services during the audit period.

CompTel also does not agree with Qwest's argument that this obvious violation of Section 271 is not material due to the relatively small number of customers and revenues affected.[21] First, the Commission has previously found that allowing a Bell Operating Company to hold itself out as a provider of long distance services prior to Section 271 authorization generates long-term strategic benefits that extend well-beyond any short-term financial gains, such as the ability to "strengthen and entrench their relationships with their in-region local

---

17 Qwest Certification, April 16, 2001, ¶ 11. (emphasis added).

18 *AT&T Corp. v. Ameritech Corp.* 13 FCC rcd. 21438 (1998), ¶ 34. *("Ameritech Order").*

19 *Id.* at ¶ 45, 50.

20 June 26 Merger Order at ¶ 14 (emphasis added).

21 Qwest Certification at ¶ 9.

customers."[22] Second, the Commission would totally undermine Section 271 if it only enforced these requirements based on the "size" of each violation.

Given its concerns about these violations, more than one year ago CompTel and its members filed letters and met with FCC staff to encourage the Commission to take appropriate enforcement action against Qwest.[23] No action has been taken, despite the existence of two consecutive independent audits demonstrating non-compliance with the statute and the Merger Orders as well as the creation of a Merger Compliance Oversight Team to ensure BOC compliance with federal merger conditions.[24]

In the absence of Commission intervention, Qwest's provision of illegal in-region interLATA services actually grew over the next 12 month period, as demonstrated by the second annual Merger Audit that was filed with the FCC on March 11.[25] For the second consecutive year, Qwest billed and branded in-region interLATA services as Qwest services. In fact, the 2002 Auditor's Report shows that the number of account records with in-region service component codes increased by almost 200 codes from 2001.[26] Further, the most recent Auditor's

---

22 Ameritech Order at ¶ 42.

23 Letter from Joan Marsh, Director, Federal Government Affairs, AT&T, to Dorothy Attwood, Chief, Common Carrier Bureau, FCC, and David Solomon, Chief, Enforcement Bureau, FCC, May 1, 2001; Letter from Lisa B. Smith, Senior Policy Counsel/Director, WorldCom, to Dorothy Attwood, Chief, Common Carrier Bureau, FCC, and David Solomon, Chief, Enforcement Bureau, FCC, May 14, 2001; Letter from Jonathan D. Lee, Vice President, Regulatory Affairs, CompTel, to Dorothy Attwood, Chief, Common Carrier Bureau, FCC, and David Solomon, Chief, Enforcement Bureau, FCC, May 16, 2001.

24 *Oversight Team to Monitor Compliance with Federal Merger Conditions*, DA # 00-1553, July 11, 2000.

25 *Report of the Independent Public Accountants, Arthur Andersen LLP*, March 11, 2002 ("2002 Auditor's Report").

26 2002 Auditor's Report, Attachment 1, page 3.

Report shows that in-region private line services for 330 customers were billed and branded as Qwest services, an increase of almost 70 customers.[27]

Qwest clearly interprets the Merger Orders to require a temporary transitional scheme, not a permanent divestiture requirement. Qwest's misconceptions about the Merger Orders is illustrated by its continuing provision of illegal long distance services and its efforts to retain control of the facilities and customers that it was required to sell to Touch America. In its recent complaint against Qwest,[28] CompTel member Touch America described a pattern of anti-competitive behavior that has hindered its ability to provide telecommunications services to Qwest's former in-region long distance customers. For example, Qwest has restricted Touch America's access to its databases and systems, thereby making it difficult for Touch America to provide adequate customer care. Qwest also has limited Touch America's access to switches that it leased to Touch America as part of the divestiture, thereby interfering with Touch America's ability to manage and control its network. Further, when Touch America disputed incorrect bills, Qwest retaliated by cutting off services to Touch America. Qwest should not be permitted to engage in such blatantly anti-competitive behavior, the goal of which is to permit the easy reacquisition of these customers from Touch America once Qwest receives Section 271 authority.

27 *Id.*

28 Complaint, *Touch America, Inc. v. Qwest Communications International, Inc.* File No. EB-02-MD-003 (Feb. 2002) and Complaint, *Touch America, Inc. v. Qwest Communications International, Inc.,* File No. EB-02-MD-004 (Feb. 11, 2002) (revised and refiled March 1, 2002). See also *Comments of AT&T Corp. on the March 2002 Audit Report*, CC Docket 99-272, May 2, 2002.

While the Commission's failure to enforce its own Merger Conditions is not surprising,[29] Qwest's provision of prohibited long distance services is a flagrant violation of the Act. As such, the Commission has a statutory obligation to impose appropriate penalties on Qwest for providing these services, notwithstanding the Commission's lack of concern regarding the parallel Merger Condition prescriptions.[30] It would certainly undermine Congressional intent to allow Qwest to reap the benefits of Section 271 without fully complying with the restrictions imposed by the statute. Instead, the Commission's inaction will doubtless encourage other BOCs to also ignore the interLATA restrictions imposed by the Act prior to Section 271 approval, resulting in the long-term competitive advantages that the Commission's earlier orders sought to prevent: notably, the ability of the BOCs to strengthen and entrench their relationships with their in-region local customers. Such an outcome clearly violates the public interest standard contained in Section 271(d)(3)(C).

---

[29] *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Comments of the Competitive Telecommunications Association, April 5, 2002, attachment 1. (CompTel has catalogued instances over the past months where the Commission has failed to act on reports of violations disclosed in FCC audit reports.) This record with respect to audit report violations instills no reason for optimism that the Commission will take carrier complaints any more seriously. We have attached a copy of this chart.

[30] CompTel agrees with the Commission's recent affirmation that "BOCs should not market long distance service in an in-region state prior to receiving Section 271 approval from the Commission for that particular state and we remind Verizon and all BOCs to exercise caution in this regard." *In the Matter of Application by Verizon New Jersey, Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks, Inc. and Verizon Select Services Inc. for Authorization to Provide In-Region, InterLATA Services in New Jersey*, WC Docket No. 02-67, Memorandum Opinion and Order, FCC 02-189 at ¶190(rel. June 24, 2002). However, unlike Verizon, Qwest has made no effort to terminate its provision of in-region interLATA telecommunications services, despite two consecutive audit reports that describe its Section 271 violations.

CompTel therefore urges the Commission to require Qwest to finally divest its in-region interLATA services, customers and assets in the 14-state US WEST region and submit to a third independent audit of its compliance with this requirement before Qwest is permitted to provide in-region interLATA services in any of its states. CompTel does not believe that this is a matter that can, or should, be resolved through the Touch America complaint proceeding because Qwest's violations transcend a simple carrier-to-carrier dispute and implicate one of the fundamental underpinnings of the Act: giving BOCs an incentive to open their markets through the opportunity to provide long distance services. Thus, the Commission must not permit Qwest to benefit from its systemic non-compliance with Section 271 by rewarding Qwest with the authority to provide in-region interLATA services. In so doing, the Commission will undermine its own commitment to enforcement of the Act and a meaningful Section 271 review process.

III. THE COMMISSION'S REVIEW OF QWEST'S WHOLESALE PERFORMANCE DATA SHOULD ENSURE THAT ALL COMPETITORS ARE RECEIVING NON-DISCRIMINATORY ACCESS TO UNES

Qwest filed a Petition for a Declaratory Ruling on April 22, 2002 asking for clarification of the types of agreements that must be filed with state commissions under Section 252(a)(1) of the Act.[31] Qwest seeks clarification of the Section 252(a)(1) requirements because several state commissions in the Qwest region have initiated investigations into Qwest's interconnection practices, specifically whether Qwest files all voluntarily negotiated interconnection agreements subject to Section 252(a)(1) for state commission review and approval, as required by Section 252(e).[32]

---

31 *In the Matter of Qwest Communications International Inc., Petition for Declaratory Ruling On the Scope of the Duty to File and Obtain Prior Approval of Negotiated Contractual Arrangements Under Section 252(a)(1),* WC Docket No. 02-89, April 23, 2002. *("Qwest Petition").*

32 *Id.* at page 20.

In these comments, CompTel does not take a position on the proper interpretation of Section 252(a)(1) with regard to the specific agreements that must be filed with the state commissions. However, CompTel does urge the FCC, consistent with the Commission's eventual clarification of Section 252(a)(1), to require Qwest to file all voluntarily negotiated interconnection agreements with the state commissions pursuant to Section 252(e).

Some CompTel members have raised concerns about Qwest's compliance with Sections 251 and 252 in the pending FCC proceeding, specifically their belief that Qwest failed to file agreements subject to Section 252(a)(1) with the state commissions.[33] These CompTel members believe that certain carriers with unfiled agreements received rates, terms and conditions that are far superior to those that were made available to other carriers. If these agreements should have been filed with the state commissions, these carriers argue that they were not able to exercise their Most Favored Nation rights under Section 252(i). As such, these carriers believe that they were not able to obtain the same rates, terms and conditions that Qwest made available to carriers with unfiled agreements. Some CompTel members also are concerned that some carriers with unfiled agreements might have received preferential treatment from Qwest, which, if true, would be reflected in wholesale performance that is significantly better than the performance Qwest provided to other competitors. If this is correct, then Qwest has not provided non-discriminatory access to unbundled network elements as required by checklist item ii. Based on the foregoing concerns, the Commission should not act on Qwest's pending Section 271 application until it resolves certain threshold issues raised by Qwest's Petition, because the Commission's clarification of Section 251(a)(1) will have a material impact on a determination

---

33 Qwest Petition, see Opposition of Touch America, Inc.; Comments of New Edge Networks, Inc.; Comments of Focal Communications Corp. and Pac-West Telecomm, Inc.; Opposition of AT&T Corp., Reply Comments of WorldCom, Inc.

of Qwest's compliance with the Act and whether Qwest provides non-discriminatory access to UNEs.

To the extent that Qwest has interconnection agreements which should have been filed with the state commissions, CompTel cannot determine whether competitors that are parties to these agreements received significantly better wholesale performance from Qwest than other competitors. This is because CompTel does not have access to carrier-specific performance data. If the Commission proceeds with its evaluation of Qwest's Section 271 application before it resolves the issues raised by Qwest's Petition, CompTel asks the Commission to separate Qwest's wholesale performance data for carriers that are alleged to have unfiled interconnection agreements from the aggregate wholesale performance results. This is because carriers that might have received different wholesale performance from Qwest could skew Qwest's overall performance in a positive direction, particularly if the difference in the level of performance cannot be attributed to random variation. Therefore, CompTel asks the Commission to examine aggregate wholesale performance data that does not include data from competitive carriers with unfiled interconnection agreements. This analysis would present a more accurate picture of Qwest's wholesale performance, which is a critical component of the FCC's evaluation. In fact, Qwest would benefit from this analysis because it would demonstrate Qwest's compliance with checklist item ii based on data that is not tainted by accusations of discriminatory treatment.

Based on the foregoing concerns, CompTel believes that Qwest's post-271 performance assurance plans must ensure that Qwest is not able to "pass" with good aggregate wholesale performance numbers if the degree of disparity between competitors receiving the best wholesale performance and the worst wholesale performance is so great that it could not be explained by random variation. In other words, each state's performance assurance plan must be sufficiently detailed and robust enough to ensure that all carriers receive good wholesale performance from Qwest, regardless of the terms of a carrier's interconnection agreement.

IV. CONCLUSION

For the foregoing reasons, Qwest's application to provide in-region interLATA services in Colorado, Idaho, Iowa, Nebraska and North Dakota must be denied.

Respectfully submitted,

By: Maureen Flood

Jonathan D. Lee
Vice President, Regulatory Affairs
Maureen Flood
Director, Regulatory and State Affairs
The Competitive Telecommunications Association
1900 M Street, NW #800
Washington, DC 20002
(202) 296-6650
(202) 296-7585 (FAX)

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Qwest Communications International, Inc. Consolidated Application for Authority To Provide In-Region InterLATA Services in Colorado, Idaho, Iowa, Nebraska and North Dakota	)	WC Docket No. 02-148

AFFIDAVIT OF PENNY H. BEWICK

STATE OF WASHINGTON)
)
COUNTY OF CLARK)

I, Penny H. Bewick, being of lawful age and duly sworn, do hereby state as follows:

I am employed by New Edge Networks, Inc. d/b/a New Edge Networks (New Edge) as Director-Government Affairs. My business address is 3000 Columbia House Blvd., Suite 106, Vancouver, Washington, 98661. My duties include representation of New Edge before the state Public Utility Commissions as well as the FCC. These duties have encompassed representation of New Edge in the long and arduous state- by- state review of Qwest Communications International, Inc.'s (Qwest) 271 compliance workshops and hearings. It is in that context that I submit this affidavit in support of the comments of the Competitive Telecommunications Association (CompTel).

On or about March 6, 2002 a New Edge sales representative brought to my attention an order for IDSL service.[1] During the process of prequalifying the customer for service availability, New Edge discovered that the customer qualified for IDSL service, however there was Integrated Pair Gain (IPG) on the available loop. Because Qwest had advised New Edge, in various forums, for the last two years, that their network could not support competitor or Qwest provision of IDSL service on a loop derived via IPG technology, New Edge advised the customer that we could not process his order.

As a result, the customer then called Qwest to investigate the possibility that it may be able to provide a service that would meet his needs. He was directed to the Qwest IDSL sales group and subsequently advised that Qwest retail could in fact provision IDSL service for him regardless of the existence of IPG on the loop. The customer then called New Edge to inquire why Qwest could provide IDSL services, but New Edge could not.

During our initial investigation, New Edge was advised by our Qwest Account Manager that Qwest's retail could not provide the requested IDSL service and implied that New Edge could not provide it either. Please see the email attached as Attachment A. New Edge made further inquiries with the customer and discovered that indeed Qwest was in contact with him regarding the provisioning of this service. In fact the customer had placed an order with Qwest and had a firm order commitment for installation. Once again, New Edge escalated with Qwest. This time Owest's email response came from someone other than the Qwest Account Manager assigned to New Edge. Please see Attachment B. This email clearly states that the Qwest megabit tool (a loop prequalification tool used by Qwest's retail group) cleared this end user for Qwest IDSL service. The information New Edge received from Steven Kast of Qwest is totally contradictory to the information provided by our Account Manager just days earlier.

The fact that New Edge was advised that the order could not be completed, and the subsequent information that Qwest was in fact able to provision the very same service for this customer once again raised the concerns of New Edge regarding non-discriminatory treatment and parity with Qwest's retail group.

In the last two years New Edge has cancelled customer orders for more than 100 end users in Colorado alone, based on the representation from Qwest that neither Qwest, nor competitors, could provision IDSL on loops served by IPG technology. All of these potential orders were cancelled by New Edge solely due to the presence of IPG on the loop as reflected by the prequalification tools provided by Qwest.

---

[1] IDSL is a developing xDSL technology which uses ISDN technology to deliver transmission speeds of 128 Kbps on copper loops as long as 18,000 feet.IDSL is a dedicated service for data applications, only; whereas ISDN is a circuit-switched service technology for voice, data, video and multimedia applications.

Qwest maintains that it did not specifically advise New Edge not to place these orders. While Qwest's statement is true from a standpoint of pure semantics, the fact, however, is that Qwest has consistently advised New Edge that IDSL could not be provisioned on loops where IPG was present. If Qwest's loop prequalification tool reflected IPG, New Edge chose not to waste valuable time and resources entering an order that it believed would subsequently be rejected by Qwest. The more New Edge pursues the issue of IDSL deployment on loops where IPG is present, the more Qwest hides behind the story; **"While we told you that we could not provision IDSL orders where IPG is present on the loop, we never told you not to place those orders."** This is ludicrous.

Qwest's other argument is that this issue was discussed in the 271 workshops in Colorado and New Edge should have known that it could start provisioning these orders as a result of those discussions. The primary discussion regarding loops with IPG, in the 271 workshops in Colorado, involved analog voice loops. Currently, New Edge does not provide voice services and as such, while attending those sessions, New Edge was not present at those discussions.

At the request of New Edge, Qwest provided the transcripts of the very 271 discussions they use as argument. Please see Attachment C. Ms. Jennings-Fader, Counsel for the Colorado Public Utility Commission, brought the discussion to the provisioning of DSL services (Colorado Docket No. 97I-198T – Workshop 5, May 25, 2001 transcripts, page 50, line 14). In response to a question from Mr. Steese, Counsel for Qwest, Qwest witness Ms. Liston states, "DLC (sic)[2] is not available over an IDLC loop. The DSL service requires a copper loop which is not part of the IDLC network" (Colorado Docket No. 97I-198T – Workshop 5, May 25, 2001 transcripts, page 52, line 4). Qwest's sworn testimony in this proceeding is in direct conflict with the claim that New Edge was duly informed that IDSL could be provisioned over loops with IPG while participating in the 271-workshop process. In fact, these workshops simply confirmed the fact that Qwest had repeatedly informed New Edge that IDSL could not be provisioned on loops with IPG.

New Edge asked Qwest for the dates that it announced to their retail group that IDSL could be provisioned on loops with IPG. Qwest responded that no such information was provided to its retail group. New Edge also asked Qwest for the same documentation that it provided to their retail group together with the technical specifications, which shows what loop specifications must be on the line to accommodate IDSL with IPG. Qwest has declined to provide the documentation provided to its retail group. Please see Attachment D.

In the Change Management process, Qwest was questioned regarding the processes in place to ensure that its retail group would not have access to products or services, and the associated documentation, prior to the CLECs having access to the same information. Qwest continually claimed that this is not an issue and that this sort of discrimination could not, and would not, happen. New Edge is here to tell you that this is a clear case of

[2] Reference to DLC is incorrect. The correct term is DSL as represented by Ms. Liston later in the quote.

such discrimination and that these actions by Qwest fly in the very face of the cooperative intent behind the workshops and the Change Management process.

Penny H. Bewick
Director-Government Affairs
New Edge Network, Inc. d/b/a New Edge Networks

State of Washington)
County of Clark)

Subscribed and sworn to me this 3rd day of July, 2002.

KATHLEEN BEIGH SHOTSKY
NOTARY PUBLIC
COMMISSION EXPIRES MARCH 3, 2006
STATE OF WASHINGTON

Notary Public

Attachment A

Bewick, Penny

From:	Hale, Chris
Sent:	Thursday, March 07, 2002 8:17 AM
To:	Bewick, Penny
Subject:	FW: Integrated Pair Gain Reject

-----Original Message-----
From: Paula Rozzi [mailto:prozzi@qwest.com]
Sent: Thursday, March 07, 2002 8:12 AM
To: Hale, Chris
Subject: Re: Integrated Pair Gain Reject

Chris,

I have checked the raw loop data and also find IPG. I also checked the megabit tool that retail uses to sell IDSL and it says not available, do not place order.

Please call me if we need to discuss further.

Paula Rozzi
Senior Service Manager
307 772-4702

*

"Hale, Chris" <chale@newedgenetworks.com> on 03/06/2002 07:09:12 PM

To: "Paula Rozzi (E-mail)" <prozzi@qwest.com>
cc: "Bewick, Penny" <PBewick@newedgenetworks.com>

Subject: Integrated Pair Gain Reject

Paula - We cancelled this order due to the integrated pair gain response from the Qwest PQ database. The EU was told that Qwest could provide them
IDSL. The Qwest order number is 40903 and the number they called is 800-898-9675.

Can you take a look at this and let me know how Qwest is providing them IDSL
over integrated pair gain?

[Customer, name, address and telephone # Redacted]

Loveland, CO 80538

PQ results
Order cancelled due to Integrated Pair Gain.

Circuit ID, 970 461-2685; Loop Length, 4.024; BT Length, 0; Insert Loss, 11.42; Metal, INTEGRATED PAIR GAIN; # Wires, TWO;
Load Type, NONE;

Thanks,

Chris Hale
chale@newedgenetworks.com
360.906.9905

Attachment B

Bewick, Penny

From: McMillin, Rob
Sent: Tuesday, March 12, 2002 3:56 PM
To: 'prozzi@qwest.com'; 'jakaufm@qwest.com'
Cc: Bewick, Penny; Hale, Chris
Subject: FW: Integrated Pair Gain Reject

Paula,
The statement below contradicts everything that Qwest has told us to date regarding provisioning IDSL over integrated pair gain equipment. On Friday, March 15, New Edge Networks will be sending letters to all 14 state commissions stating our concern. The letter will also be sent to other DSL providers who have probably experienced similar problems with Qwest. We are tired of having unbundled loop orders rejected while Qwest can provision a loop for its own retail purposes.

Sincerely,

Rob McMillin
New Edge Networks

-----Original Message-----
From: Hale, Chris
Sent: Tuesday, March 12, 2002 3:35 PM
To: Bewick, Penny; McMillin, Rob
Subject: FW: Integrated Pair Gain Reject

-----Original Message-----
From: Steven Kast [mailto:skast@qwest.com]
Sent: Tuesday, March 12, 2002 3:37 PM
To: Hale, Chris
Cc: Paula Rozzi
Subject: RE: Integrated Pair Gain Reject

QWEST can provide IDSL over Integrated Pair Gain depending on the brand.
QWEST's sales consultant uses loop qualification to determine if QWEST can
provision an IDSL order.

*

"Hale, Chris" <chale@newedgenetworks.com> on 03/12/2002 12:02:39 PM

To: "'Steven Kast'" <skast@qwest.com>, "Hale, Chris" <chale@newedgenetworks.com>
cc: Paula Rozzi <prozzi@notes.uswc.uswest.com>

Subject: RE: Integrated Pair Gain Reject

Steven - I've checked both tech pubs and they don't reference how Qwest is
provisioning IDSL over integrated pair gain equipment. Can you tell me if
Qwest is able to provide IDSL service over integrated pair gain?

When we prequalified the loop it showed integrated pair gain and thus we

had
to reject the order. Paula said her query showed the same thing. Now
your
query shows that the customer does qualify for Qwest IDSL. Both you and
Paula used the same prequal tool (Qwest's Megabit tool). Can you
explain
the discrepancy?

Thanks,
Chris Hale
chale@newedgenetworks.com
360.906.9905

-----Original Message-----
From: Steven Kast [mailto:skast@qwest.com]
Sent: Tuesday, March 12, 2002 9:44 AM
To: chale@newedgenetworks.com
Cc: Paula Rozzi
Subject: Re: Integrated Pair Gain Reject

Chris,

I verified that that tn 970-461-2685 does qualify for QWEST IDSL through
QWEST's megabit tool and does instruct the QWEST's sales consultant to
issue the order. If you would like more information as to technical
specifications, please see tech pub 77392 on DSL service and tech pub
77399
on ISDN specifications. Please contact me if you have any additional
questions or concerns.

Steven Kast
303 965-0427

Paula Rozzi
03/12/2002 09:48 AM

To: Steven Kast/COMPLEX/USWEST/US@USWEST
cc:

Subject: Integrated Pair Gain Reject

sTEVE, cAN YOU CHECK THIS OUT.
---------------------- Forwarded by Paula Rozzi/Mass/USWEST/US on
03/12/2002 09:48 AM ---------------------------

"Hale, Chris" <chale@newedgenetworks.com> on 03/11/2002 05:59:42 PM

To: "Paula Rozzi (E-mail)" <prozzi@qwest.com>
cc: "Bewick, Penny" <PBewick@newedgenetworks.com>, US West File <USWest@newedgenetworks.com>

Subject: Integrated Pair Gain Reject

Paula - I was told this afternoon that a Dick Avner from Qwest called
this
EU again today. He wants
them to confirm their order for IDSL service. His number is 602-630-0778
and

he told them Qwest is provisioning
IDSL through Motorola equipment.

Will you call Dick Avner and let me know what is happening.

Thanks,
Chris Hale
chale@newedgenetworks.com
360.906.9905

-----Original Message-----
From: Paula Rozzi [mailto:prozzi@qwest.com]
Sent: Thursday, March 07, 2002 8:12 AM
To: Hale, Chris
Subject: Re: Integrated Pair Gain Reject

Chris,

I have checked the raw loop data and also find IPG. I also checked the megabit tool that retail uses to sell IDSL and it says not available, do not place order.

Please call me if we need to discuss further.

Paula Rozzi
Senior Service Manager
307 772-4702

"Hale, Chris" <chale@newedgenetworks.com> on 03/06/2002 07:09:12 PM

To: "Paula Rozzi (E-mail)" <prozzi@qwest.com>
cc: "Bewick, Penny" <PBewick@newedgenetworks.com>

Subject: Integrated Pair Gain Reject

Paula - We cancelled this order due to the integrated pair gain response from the Qwest PQ database. The EU was told that Qwest could provide them
IDSL. The Qwest order number is 40903 and the number they called is 800-898-9675.

Can you take a look at this and let me know how Qwest is providing them IDSL
over integrated pair gain?

[Customer, name, address
and telephone # Redacted]

Loveland, CO 80538

PQ results
Order cancelled due to Integrated Pair Gain.

Circuit ID, 970 461-2685; Loop Length, 4.024; BT Length, 0; Insert Loss, 11.42; Metal, INTEGRATED PAIR GAIN; # Wires, TWO;
Load Type, NONE;

Thanks,

Chris Hale
chale@newedgenetworks.com
360.906.9905

Chris Hale
chale@newedgenetworks.com
360.906.9905

I have checked the raw loop data and also find IPG. I also checked the megabit tool that retail uses to sell IDSL and it says not available, do not place order.

Please call me if we need to discuss further.

Paula Rozzi
Senior Service Manager
307 772-4702

"Hale, Chris" <chale@newedgenetworks.com> on 03/06/2002 07:09:12 PM

To: "Paula Rozzi (E-mail)" <prozzi@qwest.com>
cc: "Bewick, Penny" <PBewick@newedgenetworks.com>

Subject: Integrated Pair Gain Reject

Paula - We cancelled this order due to the integrated pair gain response from the Qwest PQ database. The EU was told that Qwest could provide them
IDSL. The Qwest order number is 40903 and the number they called is 800-898-9675.

Can you take a look at this and let me know how Qwest is providing them IDSL
over integrated pair gain?

[Customer, Name, address and telephone # Redacted]

Loveland, CO 80538

PQ results
Order cancelled due to Integrated Pair Gain.

Circuit ID, 970 461-2685; Loop Length, 4.024; BT Length, 0; Insert Loss, 11.42; Metal, INTEGRATED PAIR GAIN; # Wires, TWO;
Load Type, NONE;

Thanks,
Chris Hale
chale@newedgenetworks.com
360.906.9905

Chris Hale
chale@newedgenetworks.com
360.906.9905

1. Information related to when IDSL can be provided over unbundled loops with integrated pair gain or integrated digital loop carrier (IDLC);

Qwest Response

Unbundled Loop type of AD--(ISDN) or ADU-(xDSL-I) can be provisioned over some types of integrated pair gain/ IDLC type systems. Qwest will make every effort to provision unbundled loops over IDLC; however in some situations based on the equipment in the Central office the order may go "held for facilities". As presented during the workshops the unbundling of IDLC from an interval perspective is very similar to conditioning and may take 15 days. However the interval may vary depending on the solution, for instance if there is a pending engineer job to build an INA di-group in the Central Office you will be notified of the "ready for service" date.

2. Information related to how New Edge can ascertain, based on Qwest's prequal tools, whether or not an unbundled loop with integrated pair gain is able to carry IDSL service;

Qwest Response

When looking at the Raw Loop Data tool or the Wire Center Raw Loop data tool, the following types of DLC systems are candidates for provisioning ISDN capable loops:

- ILTSP2
- ILTSP3
- LTSP2
- SLC5
- ISL2T3
- ISLC2T
- SLC2T
- SLC96
- UISC
- DISCS
- IDISCS
- N192

As mentioned on the call, the ISDN Qualification tool, which was built for resale purposes, would also be useful in identifying spare facilities that are capable of supporting ISDN service.

3. All information provided to Qwest's retail group regarding how it determines whether or not a loop with integrated pair gain is capable of carrying IDSL service;

Qwest Response

Qwest's retail DSL qualification tool identifies that the facility may be capable of provisioning IDSL. The retail qualification tool does not contain any loop make-up information. The retail tool provides the following message to the retail sales consultant:

> Local loop is POTENTIALLY pre-qualified to support Qwest IDSL Service. Inform customer that service date COULD be missed if facilities can not be made available by the due date!!

Qwest utilizes the same 11 step assignment process to determine if facilities exist to support Qwest IDSL as it utilizes to determine if facilities are available to support an ISDN capable loop or an xDSL-I capable loop for a CLEC. This assignment process was discussed at length during the 271 workshops.

4. The date when Qwest informed its retail operations that IDSL service can be provided over loops with integrated pair gain; and

Qwest Response

Qwest has never notified its retail sales consultants that IDSL can be provisioned on facilities with IDLC. As stated above, the retail sales consultants do not receive any information regarding the physical characteristics of the facilities. The retail loop qualification tool simply indicates if the facility might be capable of handling IDSL.

5. The date when Qwest planned to inform New Edge Networks that IDSL service can be provided over loops with integrated pair gain.

Qwest Response

Based on Tuesday's call, I believe Jean indicated that throughout 2001 Qwest refined the process for provisioning loops over integrated pair gain/IDLC. Qwest was unaware that New Edge had made a business decision not to issue LSRs for ISDN capable loops when the raw loop data indicated the presence of IDLC. Throughout 2001 the Qwest process supported the provisioning of unbundled loops over IDLC. This issue was extensively discussed during the unbundled loop workshops.

Attachment C

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO

Docket No. 97I-198T - Workshop 5

* * *

IN THE MATTER OF THE INVESTIGATION OF US WEST COMMUNICATIONS, INC.'S COMPLIANCE WITH SS 271(c) OF THE TELECOMMUNICATIONS ACT OF 1996.

Pursuant to continuation, the Technical Workshop 5 was held at 8:35 a.m., May 25, 2001, at 3898 Wadsworth Bouldevard, Lakewood, Colorado, before Facilitators Hagood Bellinger and John Schultz.

APPEARANCES

(As noted in the transcript.)

that kind of configuration. Places where we find it is more typically in the rural areas and we're working through the processes to serve those customers.

The fact that we were able to provision 84 percent of SunWest's orders in this first round indicates that Qwest has made substantial progress of the orders that they did place. We did have a problem with approximately nine percent of their orders, but we did get 84 percent of the orders in and it was on IDLC.

So Qwest believes that we have put evidence on the record showing that we are doing unbundling of loops using IDLC and we are doing loop plus number portability.

MS. JENNINGS-FADER: Because Penny Bewick is not here I am constrained to point out that it is my understanding at least that the entry strategy for New Edge is to focus primarily or predominantly in rural areas. To the extent that rural areas have the greater, as you've stated, concentration of the IDLC issue, that would, it's my understanding, substantially impact the entry strategy of at least one CLEC who is participating, although not currently present, in this process.

That's just to put it on the record. She would have said it had she been here, I'm sure.

MS. LISTON: I understand.

What I wanted to stay, we see that in the rural areas. But even when we looked across the entire state of Colorado, we had six percent of the customer base for the entire state of Colorado that were in these areas where we had a higher concentration. We're not saying we're not unbundling in those areas. We have acknowledged that we have to unbundle in those areas. We have the processes in place to do that. SunWest's data I believe demonstrates this in their supplemental testimony, as long as it's on the record, that we have made progress. They were originally told not to do any orders with IDLC. Based on that first 260 orders that they placed, 84 percent of those orders were provisioned. There are some still in held status that we're still working for solutions. That was close to 10 percent that are in the held status. That brings up over 94 percent.

We are working through those issues. We're not walking away from rural. We've identified that there are some significant problems that make it more difficult to serve those on an unbundling basis. Qwest is working through those issues.

MR. STEESE: Mana asked you a question about New Edge's plan. If a customer is served with

DLC would we be able to provision or would anyone be able to provision DSL service to them over that loop? That's New Edge's plan.

MS. LISTON: DLC is not available over a IDLC loop. The DSL service requires a copper loop which is not part of the IDLC network. Many times the ones that are on these are the ones that are further away from the central office. So for New Edge's situation we're looking at a DSL deployment. DSL requires it to be within 18,000 feet, more or less, of the central office for the customer. It may not have as big an impact on the New Edge deployment.

MS. JENNINGS-FADER: Because this document is not going, apparently, to be put in the record, I'm going to read into the record from page 2 of SunWest's supplemental statement the information SunWest provided about what happened with respect to the IDLC problems and the disconnects and the very things that happened when they tried to submit orders. Then I want you to tell me if these are the numbers on which you have based your percentages.

This is a quote from page 2: "Of the first 55 IPG, "which is also IDLC, "orders submitted by SunWest on May 1, 2001, ten lines were disconnected due to IPG problems. In all, 26 out of a total of 290 IPG

Attachment D

Bewick, Penny

From: Paula Rozzi [prozzi@qwest.com]
Sent: Friday, March 15, 2002 4:14 PM
To: McMillin, Rob
Cc: Bewick, Penny; Hale, Chris; Julie Kaufman-Prentice
Subject: RE: FW: Integrated Pair Gain Reject

Rob,

I have had an opportunity to do some investigation into the situation you have shared with me.

First I would like to clarify the Qwest unbundled loop offerings. Qwest offers an ISDN (AD - -) capable and an xDSL-I (ADU -) capable loop. These loop types are available to the CLECs to provision IDLS and can be provisioned on facilities that contain pair gain or digital loop carrier technology.

Additionlly, please keep in mind that the retail product is a line sharing type situation and there may be instances where IDSL is available to a retail customer and an Unbundled loop ISDN or XDSL-I capable loop would not be available due to a lack of compatible facilities.

We have reviewed our PCATs and Technical PUBS and will be making some updates to them to indicate that ISDN (AD--) or XDSL-I(ADU-) can be provisioned on pair gain technology. This would be dependant, of course, upon the availability of facilities and the equipment.

The loop qual tools and Raw Loop Data tools can be used to assist you in making the decision what type of unbundled loop order to request. If the facility is a short copper loop you can order a 2-wire non-loaded loop or an ADSL compatible. However, if the facility includes a digital loop carrier system then the ISDN or xDSL-I capable loops would be an alternative.

Please call me if there are any further questions or concerns.

Paula Rozzi
Senior Service Manager
307 772-4702

"McMillin, Rob" <rmcmillin@newedgenetworks.com> on 03/15/2002 01:53:23 PM

To: "'Paula Rozzi'" <prozzi@qwest.com>
cc: "Bewick, Penny" <PBewick@newedgenetworks.com>, "Hale, Chris" <chale@newedgenetworks.com>

Subject: RE: FW: Integrated Pair Gain Reject

Paula,
We will hold off sending letters to the 14 state public utility
commissions
until next Tuesday. I'm not sure what sort of clarity the tech pubs are
going to provide. I did a quick search on them and integrated pair gain
never showed up. It seems very simple to New Edge. Qwest will not
allow
CLECs to provide IDSL services over loops that contain integrated pair
gain.
Yet Qwest can provide its own IDSL services over these same loops
depending
upon the type of integrated pair gain.

Sincerely,
Rob McMillin
New Edge Networks

-----Original Message-----
From: Paula Rozzi [mailto:prozzi@qwest.com]
Sent: Thursday, March 14, 2002 12:56 PM
To: McMillin, Rob
Subject: RE: FW: Integrated Pair Gain Reject

Rob,

I am working on this as we speak to get clarification and some
additional information from our Network team, Process and Product. I am
also reviewing the most updated release of the technical pubs and the
PCAT
to validate what it says also.

I understand your frustration and asked that you give me an
opportunity
to run with this situation to get clarity.

Paula Rozzi
Senior Service Management
307 772-4702

"McMillin, Rob" <rmcmillin@newedgenetworks.com> on 03/14/2002 10:24:30
AM

To: "'Paula Rozzi'" <prozzi@qwest.com>
cc: "Bewick, Penny" <PBewick@newedgenetworks.com>, "Hale, Chris"
<chale@newedgenetworks.com>

Subject: RE: FW: Integrated Pair Gain Reject

Paula,
I don't believe the order was ever submitted based on our past
experience,
and statements by Qwest, that we cannot provision IDSL service over a
loop
that has integrated pair gain equipment. Here's the issue: We do a
loop
prequal and it shows integrated pair gain. If we submit an order to
Qwest
it would get rejected because of the integrated pair gain. Meanwhile,
Qwest

is saying that it can deliver IDSL service to this customer even though the
loop shows integrated pair gain. So why can Qwest deliver IDSL over integrated pair gain and we can't?

Sincerely,
Rob McMillin

-----Original Message-----
From: Paula Rozzi [mailto:prozzi@qwest.com]
Sent: Wednesday, March 13, 2002 8:54 AM
To: McMillin, Rob
Subject: Re: FW: Integrated Pair Gain Reject

Rob,
I have left a VM with Chris to see if he could get me the New Edge Order that was rejected. I believe the order
would go held for IPG and then subsequently be canceled if no facilities were available to provision.

I am continuing to validate this situation with our product and process people.

I need some additional information to investigate further.

What kind of loop was ordered, the order number or LSR ID?

Thanks

Paula Rozzi
Senior Service Manager
307 772-4702

"McMillin, Rob" <rmcmillin@newedgenetworks.com> on 03/12/2002 05:55:52 PM

To: "'prozzi@qwest.com'" <prozzi@qwest.com>, "'jakaufm@qwest.com'" <jakaufm@qwest.com>
cc: "Bewick, Penny" <PBewick@newedgenetworks.com>, "Hale, Chris" <chale@newedgenetworks.com>

Subject: FW: Integrated Pair Gain Reject

Paula,
The statement below contradicts everything that Qwest has told us to date
regarding provisioning IDSL over integrated pair gain equipment. On Friday,
March 15, New Edge Networks will be sending letters to all 14 state commissions stating our concern. The letter will also be sent to other DSL
providers who have probably experienced similar problems with Qwest. We are
tired of having unbundled loop orders rejected while Qwest can provision a
loop for its own retail purposes.

Sincerely,

Rob McMillin
New Edge Networks

-----Original Message-----
From: Hale, Chris
Sent: Tuesday, March 12, 2002 3:35 PM
To: Bewick, Penny; McMillin, Rob
Subject: FW: Integrated Pair Gain Reject

-----Original Message-----
From: Steven Kast [mailto:skast@qwest.com]
Sent: Tuesday, March 12, 2002 3:37 PM
To: Hale, Chris
Cc: Paula Rozzi
Subject: RE: Integrated Pair Gain Reject

QWEST can provide IDSL over Integrated Pair Gain depending on the brand.
QWEST's sales consultant uses loop qualification to determine if QWEST
can
provision an IDSL order.

"Hale, Chris" <chale@newedgenetworks.com> on 03/12/2002 12:02:39 PM

To: "'Steven Kast'" <skast@qwest.com>, "Hale, Chris" <chale@newedgenetworks.com>
cc: Paula Rozzi <prozzi@notes.uswc.uswest.com>

Subject: RE: Integrated Pair Gain Reject

Steven - I've checked both tech pubs and they don't reference how Qwest
is
provisioning IDSL over integrated pair gain equipment. Can you tell me
if
Qwest is able to provide IDSL service over integrated pair gain?

When we prequalified the loop it showed integrated pair gain and thus we
had
to reject the order. Paula said her query showed the same thing. Now
your
query shows that the customer does qualify for Qwest IDSL. Both you and
Paula used the same prequal tool (Qwest's Megabit tool). Can you
explain
the discrepancy?

Thanks,
Chris Hale
chale@newedgenetworks.com
360.906.9905

-----Original Message-----
From: Steven Kast [mailto:skast@qwest.com]
Sent: Tuesday, March 12, 2002 9:44 AM
To: chale@newedgenetworks.com
Cc: Paula Rozzi
Subject: Re: Integrated Pair Gain Reject

Chris,

I verified that that tn 970-461-2685 does qualify for QWEST IDSL through QWEST's megabit tool and does instruct the QWEST's sales consultant to issue the order. If you would like more information as to technical specifications, please see tech pub 77392 on DSL service and tech pub 77399
on ISDN specifications. Please contact me if you have any additional questions or concerns.

Steven Kast
303 965-0427

Paula Rozzi
03/12/2002 09:48 AM

To: Steven Kast/COMPLEX/USWEST/US@USWEST
cc:

Subject: Integrated Pair Gain Reject

sTEVE, cAN YOU CHECK THIS OUT.
---------------------- Forwarded by Paula Rozzi/Mass/USWEST/US on 03/12/2002 09:48 AM ---------------------------

"Hale, Chris" <chale@newedgenetworks.com> on 03/11/2002 05:59:42 PM

To: "Paula Rozzi (E-mail)" <prozzi@qwest.com>
cc: "Bewick, Penny" <PBewick@newedgenetworks.com>, US West File <USWest@newedgenetworks.com>

Subject: Integrated Pair Gain Reject

Paula - I was told this afternoon that a Dick Avner from Qwest called this
EU again today. He wants
them to confirm their order for IDSL service. His number is 602-630-0778 and
he told them Qwest is provisioning
IDSL through Motorola equipment.

Will you call Dick Avner and let me know what is happening.

Thanks,
Chris Hale
chale@newedgenetworks.com
360.906.9905

-----Original Message-----
From: Paula Rozzi [mailto:prozzi@qwest.com]
Sent: Thursday, March 07, 2002 8:12 AM
To: Hale, Chris
Subject: Re: Integrated Pair Gain Reject

Chris,

FCC Complaints Concerning RBOC Merger Violations

RBOC	MERGER AUDIT	COMPLAINTANT	DATE	ISSUE(S)	STATUS
Verizon	N/A	Covad	March 5, 2001	Verizon's unilateral elimination of an FCC-mandated discount for loops used to provide advanced services.	Open
Verizon	Collocation, Unbundled Network Element and Line-Sharing Audits (filed January 29, 2001)	WorldCom	March 20, 2001	1. Verizon failed to comply with several of the FCC's collocation requirements and discriminated to the advantage of its advanced services affiliate (i.e., Verizon did not charge the affiliate collocation fees or bill the affiliate for collocation space) 2. Verizon did not correctly bill wholesale customers for network facilities. 3. Verizon did not demonstrate to the relevant state commissions that it was necessary for Verizon to reserve dark fiber in its network. 4. Verizon provided its own employees with detailed loop information on an electronic basis, whereas Verizon only provided non-affiliated carriers with this information on a manual basis.	Open, except for collocation violations (September 14, 2001 Consent Decree)
Verizon	Genuity Audit (June 1, 2001)	AT&T	June 28, 2001 and August 8, 2001	1. Verizon is Genuity's sole supplier of debt capital, in violation of merger conditions that limit Verizon's holdings to no more than 25 percent of the total outstanding debt of Genuity. 2. Verizon is providing Genuity with preferential treatment due to its failure to (a) charge Genuity commercially reasonable rates; and (b) bill and collect outstanding debts from Genuity.	Open

				3. Verizon withheld information from the auditor. 4. Verizon's management did not provide an assertion regarding Verizon's discrimination in favor of Genuity in the provision of high-speed access and regular special access services because Verizon unilaterally decided that this was not required.	
Verizon	Genuity Audit (filed June 1, 2001)	WorldCom	June 26, 2001	Same as issues 2-4 above.	Open
Verizon	Advanced Services Affiliate & General Merger Conditions Audits (filed June 18, 2001 and June 1, 2001, respectively)	CompTel	August 6, 2001	1. Verizon provided its advanced services affiliate with free line-sharing for the period July 2000-April 2001. 2. Verizon provided its advanced services affiliate with access to operations support systems that were not available to other carriers. 3. Verizon misreported or failed to report carrier-to-carrier performance data. 4. Verizon failed to provide other carriers accurate and timely wholesale discounts mandated by the merger conditions.	Open
Qwest	Qwest-US WEST Merger Audit (April 16, 2001)	AT&T	May 1, 2001	Qwest provided in-region, interLATA private line services to 266 customers, which violates both the US WEST-Qwest merger conditions and Section 271 of TA-96.	Open
Qwest	Qwest-US WEST Merger Audit (April 16, 2001)	WorldCom	May 14, 2001	Same as above	Open
Qwest	Qwest-US WEST Merger Audit (April 16, 2001)	CompTel	May 16, 2001	Same as above	Open

Qwest	Qwest-US WEST Merger Audit (April 16, 2001)	Touch America	October 29, 2001	Same as above. However, Touch America notified the FCC that Arthur Andersen did not contact Touch America concerning the audit and would not incorporate Touch America's concerns.	
Qwest	Qwest-US WEST Merger Audit (Year 2) (March 11, 2002)	AT&T	May 2, 2002	Same as the Year 1 Audit references above, though the scope of the violations increased in Year Two.	Open
Qwest	Formal complaint concerning Qwest's failure to comply with the provisions of its divestiture agreement, as required by the Qwest-US WEST merger conditions	Touch America (formal complaint); also, Touch America letter re: Merger Audit, October 29, 2001	File No. EB-02-MD-004 (Feb. 11, 2002) (revised and refiled March 1, 2002).	Same as above, plus other accusations, such as Qwest's failure to divest facilities, etc.	Open
Qwest	Qwest-US WEST Merger Audit (Year Two) (March 11, 2002)	Touch America	May 3, 2002	Touch America asks the FCC to issue an order directing Qwest to provide Touch America with all customer, circuit and CPNI associated with the customer accounts identified as Touch America customers in the Year Two Merger Audit.	Open
SBC	SBC-Ameritech Merger Audit (Year One)	Advanced Telcom Group (ATG)	December 29, 2000	1. SBC failed to treat its advanced services affiliate on an arm's length basis (shared office space, shared executives, etc.) 2. SBC filed collocation applications on its affiliate's behalf. 3. SBC failed to comply with Rule 51.321(h) of the FCC's collocation rules concerning timely reporting of exhausted collocation space.	In the Matter of SBC Communications, Inc. Apparent Liability for Forfeiture, File No. EB-00-IH-0326a, released May 24, 2001 (collocation violations); other merger violations remain unresolved.

				4. SBC developed an ordering system on behalf of its advanced services affiliate.	
SBC	Letter requesting revisions to the data reported through the Carrier-to-Carrier Performance Plan	CompTel	June 7, 2001	CompTel requested the following revisions to the publicly reported wholesale performance data: 1. The FCC should post voluntary payments with the wholesale performance data rather than burying it in ECFS. 2. Voluntary payments should be disaggregated by state and by measure. 3. SBC should be required to report gross monthly voluntary payments. 4. SBC should report state offsets to its payments under the FCC Merger Conditions.	Open
SBC	SBC-Ameritech Merger Audit (Year Two) (September 4, 2001)	CompTel	January 24, 2002	1. SBC failed to comply with the provisions of the Carrier-to-Carrier Performance Plan; 2. SBC failed to provide required promotion discounts to non-affiliated carriers, including CompTel member ATG; 3. SBC failed to comply with the FCC's collocation rules and overcharged ATG for collocation space.	Open, with the exception of the 100 percent cap on the percentage by which SBC misses a performance benchmark under the Carrier-to-Carrier Performance Plan, which was permitted by CCB's February 6, 2002 letter to SBC.
SBC	SBC-Ameritech Merger Audit (Year Two) (September 4, 2001)	ATG	February 4, 2002	ATG notified the FCC that SBC finally credited ATG for the promotional discount required on IDSL lines by the merger conditions, 19 months late and only after CompTel and ATG filed the January 24 letter.	Open

SBC	Section 272 Biennial Audit (Texas) December 17, 2001	AT&T	February 12, 2002	AT&T asked the FCC to require SBC to publicly file a non-redacted audit report, consistent with the Commission's order on the Verizon 272 Audit Report.	Open
SBC	SBC Request for an Extension of Its Deadline for Implementation of the Uniform and Enhanced OSS Interface	WorldCom	March 15, 2002	WorldCom asked the FCC to impose the "voluntary incentive payments" associated with Paragraph 382 of the Merger Order if SBC misses its 18 month implementation deadline.	Closed per CCB's March 22, 2002 letter; no sanctions.

FCC ENFORCEMENT ACTIONS

COMPANY	VIOLATIONS	DATE	SANCTIONS	CITE
SBC	Failure to comply with section 51.312(h) of the FCC's rules, which requires timely notice of premises where collocation space has been exhausted, as identified by the collocation audit required by the SBC-Ameritech Merger Conditions.	February 25, 2002	$84,000 (reduced from $94,500)	File No. EB-00-1H-0326a Order on Review
SBC	Failure to accurately report wholesale performance data under the Carrier-to-Carrier Performance Plan required by the SBC/Ameritech Merger Conditions. (reporting period 10/8/99 through 12/31/99 for TX, OK, KS, MO, AK, CA, and NV)	May 29, 2001	$88,000	File No. EB-00-IH-0432, Forfeiture Order
Verizon	Failure to comply with section 51.312(h) of the FCC's rules, which requires timely notice of premises where collocation space has been exhausted, as identified by the collocation audit required by the Bell Atlantic-GTE Merger Conditions. (reporting period 7/1/00 through 10/31/00)	September 14, 2001	$77,000 plus remedial actions to ensure compliance with the rule.	File No. EB-01-1H-0236 Consent Decree

SBC	Failure to provide shared transport in the Ameritech states as required by the SBC-Ameritech Merger Conditions.	January 18, 2002	$6,000,000	File No. EB-01-IH-0030 Notice of Apparent Liability
Verizon	Verizon must allow Global NAPs to adopt its Rhode Island interconnection agreement with Verizon in Massachusetts and Virginia under the multi-state MFN requirement in the Bell Atlantic-GTE Merger Conditions	February 28, 2002	No damages; Global NAPs must file the Rhode Island agreement with the Virginia and Massachusetts commissions.	File No. EB-01-MD-010 Memorandum Opinion and Order